IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

WEDNESDAY, THE 13TH DECEMBER 2006 / 22ND AGRAHAYANA 1928

OP.No. 8355 of 2003(T)

PETITIONER:

M/S. PRINCE ELECTRICALS, ROUND SOUTH,
THRISSUR, REPRESENTED BY ITS MANAGING PARTNER,
SRI.V.K.JOY S/O. V.M.KOCHAPPAN

BY ADV. SRI.ABRAHAM MATHEW (VETTOOR)

RESPONDENTS:
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1. STATE OF KERALA, REPRESENTED BY THE
SECRETARY TO GOVERNMENT, COMMERCIAL TAXES,
SECRETARIAT, TRIVANDRUM.

2. THE SALES TAX APPELLATE TRIBUNAL,
ADDL. BENCH, PALGHAT.

3. THE APPELLATE ASSISTANT COMMISSIONER OF
SALES TAX, THRISSUR.

4. THE DEPUTY COMMISSIONER OF SALES TAX,
THRISSUR

5. THE ADDITIONAL SALES TAX OFFICER,
1 FIRST CIRCLE, THRISSUR

6. THE SPECIAL DEPUTY THAHSILDAR TO A.I.T
AND S.T. COLLECTION, THRISSUR.

BY GOVERNMENT PLEADER SRI.G.SURARSHAN

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 13/12/2006, THE COURT ON 13/12/2006 DELIVERED THE FOLLOWING:

ORDER ON C.M.P. NO.14555/2003 IN O.P. NO.8355/2003

DISMISSED:

13.12.2006 SD/-(C.N.RAMACHANDRAN NAIR, JUDGE.)

APPENDIX

PETITIONER'S EXHIBITS:

P1: TRUE COPY OF ASSESSMENT ORDER PASSED U/S.18(2) OF THE K.R.R. ACT IN RESPECT OF THE YEAR 95-96 DT.11.10.2002.

P2: TRUE COPY OF THE ASSESSMENT FOR THE YEAR 1996-97 DT.28.10.2002.

P3: TRUE COPY OF THE ASSESSMENT FOR THE YEAR 1997-98 DT.27.12.2002.

P4: TRUE COPY OF THE MEMORANDUM OF APPEAL FILED BEFORE R3 IN RESPECT OF THE YEAR 95-96 DT.24.12.2003.

P5: .DO. 1996-97 .DO.

P6: .DO. 1997-98 DT.10.2.2003.

P7: TRUE COPY OF COMMON APPELLATE ORDER IN RESPECT OF THE YEARS 95-96 AND 96-97 DT.28.2.2003.

P8: TRUE COPY OF MEMORANDUM OF SECOND APPEAL FILED AGAINST THE ORDER PASSED IN RESPECT OF THE YEAR 95-96 DT.4.3.2003.

P9: .DO. 96-97 .DO.

P10: TRUE COPY OF ORDER DT.11.10.2002 PASSED BY R5 IMPOSING PENALTY IN RESPECT OF THE YEAR 95-96.

P11: TRUE COPY OF DEMAND NOTICE PURSUANT TO EXT.P10 DT.27.12.2002.

P12: TRUE COPY OF THE REVISION PETITION FILED BEFORE R4 DT.24.1.2003.

P13: TRUE COPY OF ORDER PASSED BY R5 IMPOSING PENALTY IN RESPECT OF THE YEAR 96-97 DT.27.12.2002.

P14: TRUE COPY OF DEMAND NOTICE MADE BY R5 PURSUANT TO EXT.P13 DT.18.1.2003.

P15: REVISION PETITION FILED BEFORE R4 AGAINST P13 DT.24.1.2003.

P16: TRUE COPY OF DEMAND NOTICE DT.7.1.2003 PURSUANT TO ORDER IMPOSING PENALTY IN RESPECT OF THE YEAR 1997-98.

P17: TRUE COPY OF DEMAND NOTIC IN FORM 34 ISSUED BY R6 DT.4.3.2003.

P18: .DO. FORM 1 DT.4.3.2003 IN RESPECT OF THE YEAR 95-96.

P19: .DO. 1996-97.

P20: .DO. 1997-98 DT.6.3.2003.

TRUE COPY

P.S. TO JUDGE

C.N.RAMACHANDRAN NAIR, J.

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W.P.(C) No.8355 of 2006

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Dated this the 13th day of December, 2006.

JUDGMENT

The grievance of the petitioner is that even though orders in appeal are given effect to by the Assessing Officer, revenue recovery is continued for the original demand. It is for the petitioner to produce the revised orders before the recovery authority namely, Tahsildar and if the Tahsildar finds variation from the amount recommended by the officer for recovery, he will clarify the matter from the Assessing Officer and proceed for recovery of the actual amount payable by the petitioner in accordance with the revised orders and issue demand notice. The Assessing Officer and the Tahsildar are directed to look into the grievance of the petitioner on petitioner producing orders in appeal or revised orders. So far as petitioner's grievance against penalty is concerned, it is for the petitioner to pursue revision or other statutory remedies available. If any revision is pending, there will be direction to the revisional authority to dispose of the revision after hearing the petitioner within thirty days from the date of production of copy of this judgment. Recovery will be continued for the actual demand.

The O.P. is disposed of as above.

C.N.RAMACHANDRAN NAIR
Judge

pms